



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 8641622

Date: JULY 21, 2020

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Advanced Degree, Exceptional Ability, National Interest Waiver)

The Petitioner, a financial analyst, seeks second preference immigrant classification as a member of the professions holding an advanced degree, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Texas Service Center denied the petition, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree, but that he had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest.

On appeal, the Petitioner submits additional documentation and a brief asserting that he is eligible for a national interest waiver.

In these proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

I. LAW

To establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification, as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

Section 203(b) of the Act sets out this sequential framework:

- (2) Aliens who are members of the professions holding advanced degrees or aliens of exceptional ability. –

(A) In general. – Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

(B) Waiver of job offer –

(i) National interest waiver. . . . [T]he Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

While neither the statute nor the pertinent regulations define the term “national interest,” we set forth a framework for adjudicating national interest waiver petitions in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016).¹ *Dhanasar* states that after a petitioner has established eligibility for EB-2 classification, U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion², grant a national interest waiver if the petitioner demonstrates: (1) that the foreign national’s proposed endeavor has both substantial merit and national importance; (2) that the foreign national is well positioned to advance the proposed endeavor; and (3) that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the foreign national proposes to undertake. The endeavor’s merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact.

The second prong shifts the focus from the proposed endeavor to the foreign national. To determine whether he or she is well positioned to advance the proposed endeavor, we consider factors including, but not limited to: the individual’s education, skills, knowledge and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals.

The third prong requires the petitioner to demonstrate that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. In performing this analysis, USCIS may evaluate factors such as: whether, in light of the nature of the foreign national’s qualifications or the proposed endeavor, it would be impractical either for the foreign national to secure a job offer or for the petitioner to obtain a labor certification; whether, even assuming

¹ In announcing this new framework, we vacated our prior precedent decision, *Matter of New York State Department of Transportation*, 22 I&N Dec. 215 (Act. Assoc. Comm’r 1998) (NYSDOT).

² See also *Poursina v. USCIS*, No. 17-16579, 2019 WL 4051593 (Aug. 28, 2019) (finding USCIS’ decision to grant or deny a national interest waiver to be discretionary in nature).

that other qualified U.S. workers are available, the United States would still benefit from the foreign national's contributions; and whether the national interest in the foreign national's contributions is sufficiently urgent to warrant forgoing the labor certification process. In each case, the factor(s) considered must, taken together, indicate that on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.³

II. ANALYSIS

The Director found that the Petitioner qualifies as a member of the professions holding an advanced degree. The remaining issue to be determined is whether the Petitioner has established that a waiver of the requirement of a job offer, and thus a labor certification, would be in the national interest. For the reasons discussed below, we agree with the Director that the Petitioner has not sufficiently demonstrated the national importance of his proposed endeavor under the first prong of the *Dhanasar* analytical framework.

Regarding his claim of eligibility under *Dhanasar*'s first prong, the Petitioner indicated that he intends to continue his "career in the United States as a financial analyst." He explained that his proposed endeavor involves serving "U.S. companies in need of steep financial restructuring and expansion initiatives." The Petitioner further stated that he plans to encourage them "to reach international consumer markets, as well as key investment hubs, such as Brazil and Latin America." He also asserted:

I can improve a company's financial efforts by leveraging the wealth of consumer data from various sources, and target messaging accordingly. In addition, by restructuring internal teams, adopting new technology, expanding market opportunities, and focusing on the new customer journey, and allowing for a deeper understanding of financial, business, and investment touch points, I will ultimately create a greater competitive advantage for all corporations I serve.

In his appeal brief, the Petitioner maintains that as a financial analyst, his proposed work involves "serving U.S. businesses and their respective clients alike on their financial activities." He further contends that "[b]esides restructuring the financial processes and profitability levels of varied wealth management organizations, he will also rightly serve both Brazilian and American investors looking to expand their businesses and investment portfolios to abroad markets, such as the U.S. and Latin America, respectively." Furthermore, the Petitioner states that "[i]n both circumstances, he will serve as a financial entity regarding foreign investment opportunities, particularly enhancing the United States' economic landscape."

The Petitioner presents a September 2019 letter from [REDACTED] a brokerage services company with offices in [REDACTED] and [REDACTED], indicating that he has been employed there since August 2019 and that his work helps "clients achieve optimal performance based on their individualized financial goals."⁴ This letter further states: "By providing specialized financial guidance for those investing abroad and

³ See *Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

⁴ As the Petitioner is applying for a waiver of the job offer requirement, it is not necessary for him to have a job offer from a specific employer. However, we will consider information about his position to illustrate the capacity in which he intends to work in order to determine whether his proposed endeavor meets the requirements of the *Dhanasar* analytical framework.

simplifying each step of the global investor’s journey, [the Petitioner] is facilitating our client’s experience and offering personalized and innovative solutions in wealth management”

The record includes reports relating to “Financial Planning & Advice in the U.S.,” the value of our country’s financial services industry (\$1.45 trillion), the impact of foreign direct investment (FDI) on our country’s economy, jobs attributable to FDI, the business of banking, the world’s top 20 economies, the U.S. economic forecast for 2019, digital transformation in banking, the effect of multi-localism on FDI, economic avenues for strengthening U.S.-Brazil trade and FDI, the complexity of financial operations in China and Brazil, and industry efforts to attract financial advisors. In addition, the Petitioner provided articles discussing U.S. hiring trends, the lack of consumer trust in the financial services industry, the benefits of international trade and investment, mistrust in the U.S. banking industry, the role of financial services in society, the investment management outlook for 2019, international banks as a conduit for private sector investments, using digital transformation to foster innovation, FDI in Brazil, innovation in the financial services industry, improvement in Brazil’s business environment, and a projected shortage of U.S. financial advisors.

The Petitioner also offered information about capital, savings, and investment as part of the U.S. economy; the advantages of foreign portfolio investment; financial inclusion as a way to foster economic development; the quality of jobs created through FDI; banking and capital markets outlook for 2019; digital banking transformation; the influence of demographic and social change and technological breakthroughs on the future of banking; the U.S.-Brazil trade partnership; Brazilian President Jair Bolsonaro’s visit to the White House; and marketplace trends facing financial advisors. The record therefore shows that the Petitioner’s proposed work as a financial analyst has substantial merit.

In determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead we focus on the “the specific endeavor that the foreign national proposes to undertake.” *See Dhanasar*, 26 I&N Dec. at 889. In *Dhanasar*, we further noted that “we look for broader implications” of the proposed endeavor and that “[a]n undertaking may have national importance for example, because it has national or even global implications within a particular field.” *Id.* We also stated that “[a]n endeavor that has significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area, for instance, may well be understood to have national importance.” *Id.* at 890.

The Petitioner maintains on appeal that his proposed work “offers significant contributions to the field more broadly.” He asserts that “a great number of investors from Brazil and other countries in Latin America are currently looking for safe haven countries to invest their money The Petitioner’s mission is to attract those foreign investors and convince them that the United States are their best option.” The Petitioner further argues that “with more investments he helps bring into the country, the economy gets stronger and more jobs are created.” In addition, he contends that “[t]he benefits that he can generate advancing his proposed endeavor will positively impact, not only employers or potential clients, but also a significant amount of people and companies affected by services in the financial industry.” The Petitioner also claims that his proposed endeavor stands to affect the national economy by “[o]ffering economic convenience and agility”; “[d]riving financial productivity for U.S. companies, investors, and clients that wish to expand their investment portfolio to abroad markets”; and “prioritizing the domestic job market.”

To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement we look to evidence documenting the "potential prospective impact" of his work. Although the Petitioner's statements reflect his intention to provide valuable financial services for his U.S. employer and clients, he has not offered sufficient information and evidence to demonstrate that the prospective impact of his proposed endeavor rises to the level of national importance. In *Dhanasar* we determined that the petitioner's teaching activities did not rise to the level of having national importance because they would not impact his field more broadly. *Id.* at 893. Here, we find the record does not show that the Petitioner's proposed endeavor stands to sufficiently extend beyond his employer and clientele to impact the financial services industry or U.S. economy more broadly at a level commensurate with national importance.

Furthermore, the Petitioner has not demonstrated that the specific endeavor he proposes to undertake has significant potential to employ U.S. workers or otherwise offers substantial positive economic effects for our nation. Without sufficient information or evidence regarding any projected U.S. economic impact or job creation attributable to his future work, the record does not show that benefits to the U.S. regional or national economy resulting from the Petitioner's financial projects would reach the level of "substantial positive economic effects" contemplated by *Dhanasar*. *Id.* at 890. Accordingly, the Petitioner's proposed work does not meet the first prong of the *Dhanasar* framework.

Because the documentation in the record does not establish the national importance of his proposed endeavor as required by the first prong of the *Dhanasar* precedent decision, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of his eligibility under the second and third prongs outlined in *Dhanasar*, therefore, would serve no meaningful purpose.

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we find that he has not established he is eligible for or otherwise merits a national interest waiver as a matter of discretion. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.